

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4340 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KAMINIBEN KANUBHAI PATEL

Versus

DESAI MAHENDRABHAI SHANTILAL

Appearance:

MR GI DESAI for Petitioner

MR RS PANDYA for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 06/04/98

ORAL JUDGEMENT

This appeal arises out of the judgment and decree dated 4th October, 1997 passed by the learned Extra Assistant Judge, Vadodara in Hindu Marriage Petition No. 1992.

2. When this appeal came up for final hearing, learned advocate for the respondent raised preliminary objection that the appeal is not maintainable before this Court.

3. As held by this Court in a number of cases (Kanuben Bhimabhai versus Lakhabhai Vithalbhai, 1984 G.L.H. 3691, Ramjibhai Lalbhai Patel v. Smt. Shantaben, D/o. Manilal Jashkanbhai Patel, 1984 G.L.H.956 and Maniben D/o. Mithalal Parmar versus Gopalbhai Punjabhai Dhanka, 1985 G.L.H. 1009), the appeal against the judgment and decree passed by an Assistant Judge in a Hindu Marriage Petition, which is filed on a fixed Court-fee, will lie to the District Court and not to this Court. The memo of appeal is, therefore, required to be returned to the appellant for presentation to the proper Court. It is, therefore, directed that the memo of Appeal along with the certified copies of the judgment and decree be returned to the appellant for presentation to proper Court.

4. As and when the appeal is filed in the District Court, the District Judge will naturally try to arrange for early hearing and disposal of the appeal since this is a matrimonial matter.

Order accordingly.

Vyas